

## ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

### FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: May 25, 2017

Findings Date: May 25, 2017

Project Analyst: Tanya S. Rupp

Team Leader: Lisa Pittman

Project ID #: F-11294-17

Facility: WillowBrooke Court SC Ctr at Plantation Estates

FID #: 923412

County: Mecklenburg

Applicant: ACTS Retirement-Life Communities, Inc.

Project: Add 10 NF beds pursuant to Policy NH-2 and 40 ACH beds pursuant to Policy LTC-1 for a total of 90 NF beds and 100 ACH beds

### REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

G.S. 131E-183(a) The Department shall review all applications utilizing the criteria outlined in this subsection and shall determine that an application is either consistent with or not in conflict with these criteria before a certificate of need for the proposed project shall be issued.

- (1) The proposed project shall be consistent with applicable policies and need determinations in the State Medical Facilities Plan, the need determination of which constitutes a determinative limitation on the provision of any health service, health service facility, health service facility beds, dialysis stations, operating rooms, or home health offices that may be approved.

C

ACTS Retirement-Life Communities, Inc. (“ACTS”, or “the applicant”) proposes to develop 10 new Nursing Facility (NF) beds and 40 new Adult Care Home (ACH) Beds at WillowBrooke Court SC Ctr at Plantation Estates (WillowBrooke), an existing Continuing Care Retirement Community located in Charlotte in Mecklenburg County, pursuant to Policy NH-2 and Policy LTC-1. Upon completion of the proposed project, WillowBrooke will have 90 NF and 100 ACH beds along with 505 independent living units.

### Need Determination

The proposed project does not involve the addition of any new health service facility beds, services or equipment for which there is a need determination in the 2017 State Medical Facilities Plan (2017 SMFP).

### **Policies**

The following four policies are applicable to this review:

- Policy NH-2: Plan Exemption for Continuing Care Retirement Communities
- Policy NH-8: Innovations in Nursing Facility Design Policy
- Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds
- Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities

### **Policy NH-2: Plan Exemption for Continuing Care Retirement Communities**

*“Qualified continuing care retirement communities may include from the outset or add or convert bed capacity for nursing care without regard to the nursing care bed need shown in Chapter 10: Nursing Care Facilities. To qualify for such exemption, applications for certificates of need shall show that the proposed nursing care bed capacity:*

- 1. Will only be developed concurrently with or subsequent to construction on the same site of facilities for both of the following levels of care:*
  - a. independent living accommodations (apartments and homes) for people who are able to carry out normal activities of daily living without assistance; such accommodations may be in the form of apartments, flats, houses, cottages and rooms;*
  - b. licensed adult care home beds for use by people who, because of age or disability, require some personal services, incidental medical services and room and board to assure their safety and comfort.*
- 2. Will be used exclusively to meet the needs of people with whom the facility has continuing care contracts (in compliance with the North Carolina Department of Insurance statutes and rules) who have lived in a non-nursing unit of the continuing care retirement community for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the nursing unit at the time the other spouse or sibling moves into a non-nursing unit, or when the medical condition requiring nursing care was not known to exist or be imminent when the individual became a party to the continuing care contract.*

3. *Reflects the number of nursing care beds required to meet the current or projected needs of residents with whom the facility has an agreement to provide continuing care after making use of all feasible alternatives to institutional nursing care.*
4. *Will not be certified for participation in the Medicaid program.*

*One half of the nursing care beds developed under this exemption shall be excluded from the inventory used to project nursing care bed need for the general population. Certificates of need issued under policies analogous to this policy in the North Carolina State Medical Facilities Plans subsequent to the 1985 State Medical Facilities Plan are automatically amended to conform to the provisions of this policy at the effective date of this policy. Certificates of need awarded pursuant to the provisions of Chapter 920, Session Laws 1983 or Chapter 445, Session Laws 1985 shall not be amended.”*

In Section III.1, page 25 and III.4, page 32, the applicant states that the proposed NF beds to be added will conform to Policy NH-2 as follows:

- The beds will be developed on the same site as independent living units and the licensed adult care home beds.
- The beds will be used exclusively to meet the needs of the people with whom WillowBrooke has a continuing care contract and who have lived in a non-nursing unit of WillowBrooke for a period of at least 30 days, unless as excepted by Policy NH-2.
- The beds are required to meet the projected needs of the WillowBrooke community and its residents.
- The beds will not be certified for participation in the Medicaid program.

#### **Policy NH-8: Innovations in Nursing Facility Design**

*“Certificate of need applicants proposing new nursing facilities, replacement nursing facilities and projects associated with the expansion and/or renovation of existing nursing facilities shall pursue innovative approaches in care practices, work place practices and environmental design that address quality of care and quality of life needs of the residents. These plans could include innovative design elements that encourage less institutional, more home-like settings, privacy, autonomy and resident choice, among others.”*

In Section III.4, page 33, the applicant states it supports innovative approaches to nursing care facilities and will continue to promote these concepts in the expanded facility. The information provided by the applicant is reasonable and adequately supports the determination that the proposal is consistent with Policy NH-8.

#### **Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds**

*“Qualified continuing care retirement communities may include from the outset or add or convert bed capacity for adult care without regard to the adult care home bed need shown in Chapter 11: Adult Care Homes. To qualify for such exemption, applications for certificates of need shall show that the proposed adult care home bed capacity:*

- 1. Will only be developed concurrently with, or subsequent to, construction on the same site of independent living accommodations (apartments and homes) for people who are able to carry out normal activities of daily living without assistance; such accommodations may be in the form of apartments, flats, houses, cottages, and rooms.*
- 2. Will provide for the provision of nursing services, medical services or other health related services as required for licensure by the North Carolina Department of Insurance.*
- 3. Will be used exclusively to meet the needs of people with whom the facility has continuing care contracts (in compliance with the North Carolina Department of Insurance statutes and rules) who have lived in a non-nursing or adult care unit of the continuing care retirement community for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the adult care home unit at the time the other spouse or sibling moves into a non-nursing or adult care unit, or when the medical condition requiring nursing or adult care home care was not known to exist or be imminent when the individual became a party to the continuing care contract.*
- 4. Reflects the number of adult care home beds required to meet the current or projected needs of residents with whom the facility has an agreement to provide continuing care after making use of all feasible alternatives to institutional adult care home care.*
- 5. Will not participate in the Medicaid program or serve State-County Special Assistance recipients.*

*One half of the adult care home beds developed under this exemption shall be excluded from the inventory used to project adult care home bed need for the general population. Certificates of need issued under policies analogous to this policy in the North Carolina State Medical Facilities Plans subsequent to the North Carolina 2002 State Medical Facilities Plan are automatically amended to conform with the provisions of this policy at the effective date of this policy.”*

In Section II.2, pages 12 – 18, Section III.1, page 25 and Section III.4, page 32, the applicant states that the proposed ACH beds to be added will conform to Policy LTC-1 as follows:

- The beds will be developed on the same site as both the independent living units and the licensed NF home beds.

- The beds will provide for the provision of nursing services, medical services or other health related services as required for licensure by the North Carolina Department of Insurance.
- The beds will be used exclusively to meet the needs of the people with whom WillowBrooke has a continuing care contract and who have lived in a non-nursing unit of WillowBrooke for a period of at least 30 days, unless as excepted by Policy LTC-1.
- The beds are required to meet the projected needs of the WillowBrooke community and its residents.
- Will not be certified for participation in the Medicaid program.

**Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities** states:

*“Any person proposing a capital expenditure greater than \$2 million to develop, replace, renovate, or add to a health service facility pursuant to G.S. 131E-178 shall include in its certificate of need application a written statement describing the project’s plan to assure improved energy efficiency and water conservation.*

*In approving a certificate of need proposing an expenditure greater than \$5 million to develop, replace, renovate, or add to a health service facility pursuant to G.S. 131E-178, the Certificate of Need Section shall impose a condition requiring the applicant to develop and implement an Energy Efficiency and Sustainability Plan for the project that conforms to or exceeds energy efficiency and water conservation standards incorporated in the latest editions of the North Carolina State Building Codes. The plan must be consistent with the applicant’s representation in the written statement as described in paragraph one of Policy GEN 4.*

*Any person awarded a certificate of need for a project or an exemption from review pursuant to G.S. 131E-184 are required to submit a plan for energy efficiency and water conservation that conforms to the rules, codes and standards implemented by the Construction Section of the Division of Health Service Regulation. The plan must be consistent with the applicant’s representation in the written statement as described in paragraph one of Policy-GEN 4. The plan shall not adversely affect patient or resident health, safety, or infection control.”*

The proposed capital expenditure for this project is greater than \$5 million. In Section XI.14, pages 94 - 95, the applicant describes the methods that will be used by the facility to maintain efficient operations and contain the cost of utilities. The application is consistent with Policy GEN-4 subject to Condition #8 in Criterion (4) of these findings.

**Conclusion**

In summary, the applicant adequately demonstrates that the application is consistent, as conditioned, with Policies NH-2, LTC-1 and GEN-4. Therefore, the application is conforming to this criterion.

- (2) Repealed effective July 1, 1987.
- (3) The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.

C

The applicant proposes to develop 10 new NF beds and 40 new ACH beds at WillowBrooke, an existing CCRC located in Mecklenburg County, pursuant to Policy NH-2 and Policy LTC-1. Upon completion of the proposed project, WillowBrooke will have 90 NF and 100 ACH beds along with 505 independent living units. The applicant is also constructing new independent living apartments, which are not reviewable as part of this application.

On page 191, the 2017 SMFP defines the service area for NF beds as *“the nursing care bed’s service area is the nursing bed care planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.”* Thus, the service area for this facility consists of Mecklenburg County. Facilities may also serve residents of counties not included in their service area.

On page 219, the 2017 SMFP defines the service area for ACH beds as *“the adult care home bed planning area in which the bed is located. Ninety-eight counties in the state are separate adult care home planning areas. Two counties, Hyde and Tyrell, are considered a combined service area”*. Thus, the service area for this facility consists of Mecklenburg County. Facilities may also serve residents of counties not included in their service area.

**Patient Origin**

In Section III.9, page 35, the applicant provides the proposed patient origin at WillowBrooke during the first full federal fiscal year of operation following completion of the project as shown in the table below.

COUNTY	NF BEDS- PERCENT OF TOTAL NF ADMISSIONS	ACH BEDS- PERCENT OF TOTAL ACH ADMISSIONS
Mecklenburg	100%	100%

Total	100%	100%
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The applicant states that 100 percent of admissions to WillowBrooke will be from Mecklenburg County because all of the beds will be reserved for existing independent living residents who are residents of Mecklenburg County.

The applicant adequately identifies the population to be served.

### **Analysis of Need**

In Section III.1, pages 25 - 28, the applicant describes the need to develop 10 new NF beds and 40 ACH beds at WillowBrooke, an existing CCRC in Mecklenburg County, pursuant to Policy NH-2 and Policy LTC-1, as follows:

- WillowBrooke is an existing CCRC in which demand for all levels of care has reached capacity much sooner than anticipated. The applicant is also developing 146 new independent living beds due to a waiting list for apartments.
- A market feasibility study for WillowBrooke revealed the following:
  - 73% of the residents living at Plantation Estates (independent living facility of WillowBrooke) moved from the ZIP codes in WillowBrooke's market area.
  - The market penetration rate for senior housing in the area is 30.1%, which is over the nationally desirable rate of 15%.
- In 2015 and 2016, utilization at WillowBrooke was 84.1% and 85.3%, respectively, for NF beds and 95.9% and 96.6%, respectively, for ACH beds (see page 27).
- The current ACH bed complement will not be sufficient to meet the needs of the residents who will occupy the new independent living units and who will need adult care home beds.
- The NF bed utilization is impacted by the lack of private NF rooms at the current facility. The applicant provides a letter from a patient whose terminal husband had to spend his last days in a semi-private room, which resulted in tension among the residents and unnecessary anguish for the patient.

Based on review of the information provided by the applicant in Section III, the applicant adequately demonstrates the need to develop 10 Policy NH-2 NF beds and 40 Policy LTC-1 ACH beds at WillowBrooke.

### **Projected Utilization**

In Section IV, pages 38 - 41, the applicant provides projected utilization for 90 NF beds and 100 ACH beds during the first two full federal fiscal years (FFYs), as shown in the following table.

**NF Bed - Projected Utilization  
 First and Second Operating Years**

	<b>OY1 FFY 2020</b>	<b>OY2 FFY 2021</b>
Patient Days	25,413	25,660
# of beds	74	74
Occupancy Rate	94.1%	95.0%

**SCU Beds - Projected Utilization  
 First and Second Operating Years**

	<b>OY1 FFY 2018</b>	<b>OY2 FFY 2019</b>
Patient Days	5,321	5,321
# of beds	16	16
Occupancy Rate	91.1%	91.1%

**ACH Beds-Projected Utilization  
 First and Second Operating Years**

	<b>OY1 FFY 2020</b>	<b>OY2 FFY 2021</b>
Patient Days	31,976	33,580
# of bed	100	100
Occupancy Rate	87.7%	92.0%

In Section III, pages 26 - 28, and in Section IV, pages 38 - 39, the applicant provides the assumptions and methodology it used to project utilization of the 90 Policy NH-2 NF beds and the 100 Policy LTC-1 ACH beds, summarized as follows:

- Number of residents who desire a private room: currently 68 of 80 NF beds are semi-private. There are 16 NF residents in semi-private rooms who would like a private room. There are nine ACH residents who would like a private room, and nine additional ACH residents who are in need of NF care, desire a private room, and there are none available. There are independent living residents on a waiting list for private NF rooms. The applicant proposes more private rooms to accommodate patient desires.



- Occupancy projected to be 95% in the first two project years: the most recent average daily census (ADC) for the nine months preceding submittal of the application was 54 patients, or 84.5% occupancy (see page 38). Given the number of independent living residents who on a waiting list for NF beds, this is a reasonable projection.
- Facility improvements: the applicant proposes facility improvements, including additional private rooms in response to patient needs and requests.
- Patient demand for special care unit (SCU) beds: the applicant states the most recent utilization in the SCU NF beds was 91.1% for the nine months preceding submittal of the application (see page 39).
- ACH utilization: the most recent ADC for the nine months preceding submittal of the application for the ACH beds was 58 patients, or 97.4% occupancy (see page 39). Given the number of independent living residents currently on a waiting list for an ACH bed to become available, the applicant projects occupancy of 90% in the first project year and 92% in the second project year. On page 39, the applicant states the existing ACH bed complement is not sufficient to meet the needs of the current independent living community, even without the projected growth.

Additionally, in Exhibit 14 the applicant provides 11 patient letters, each of which reveals a personal account of a patient or close family member of a patient whose care was negatively impacted by the lack of adequate private space in the time prior to death. There is also a letter of support for the project from a physician who refers patients to WillowBrooke and who will continue to do so.

In addition, the applicant states on page 27 that there are currently 26 independent living residents who are on a waiting list for an ACH bed to become available. The applicant states that in CY 2016 the ACH Beds operated at 96.6% occupancy.

Projected utilization is based on reasonable and adequately supported assumptions.

### **Access**

In Section III.1, page 25, the applicant states that the proposed Policy NH-2 beds and Policy LTC-1 beds will be used exclusively to meet the needs of people with whom the facility has continuing care contracts with.

### **Conclusion**

In summary, the applicant identified the population to be served, adequately demonstrates the need the population projected to be served has for the proposed project, and adequately

demonstrates the extent to which all residents of the service area will have access to the services. Therefore, the application is conforming to this criterion.

- (3a) In the case of a reduction or elimination of a service, including the relocation of a facility or a service, the applicant shall demonstrate that the needs of the population presently served will be met adequately by the proposed relocation or by alternative arrangements, and the effect of the reduction, elimination or relocation of the service on the ability of low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly to obtain needed health care.

NA

- (4) Where alternative methods of meeting the needs for the proposed project exist, the applicant shall demonstrate that the least costly or most effective alternative has been proposed.

CA

The applicant proposes to develop 10 new NF beds and 40 new ACH beds at WillowBrooke in Mecklenburg County, pursuant to Policy NH-2 and Policy LTC-1. Upon completion of the proposed project, WillowBrooke will have 90 NF and 100 ACH beds along with 505 independent living units. The applicant is also constructing new independent living apartments, which are not reviewable as part of this application.

In Section III.2(a), page 29, the applicant describes the one alternative it considered prior to submitting the application, which is:

- Maintain the Status Quo - the applicant states that the facility is currently expanding its independent living facility by 146 units; and there are over 300 households on the waiting list for the facility. Additionally, WillowBrooke's existing ACH beds operated at 96.6% capacity in CY 2016. The applicant states there is clear demand for continuing independent living and nursing and adult care home beds. Therefore, maintaining the status quo is not an effective alternative because it fails to address the needs of the patient population.

Furthermore, the application is conforming to all other applicable statutory and regulatory review criteria, and thus, is approvable. An application that cannot be approved cannot be an effective alternative.

The applicant adequately demonstrates that the proposed alternative is the most effective or least costly alternative to meet its identified need. Therefore, the application is conforming to this criterion and approved subject to the following conditions.

1. **ACTS Retirement-Life Communities, Inc. d/b/a WillowBrooke Court SC Ctr at Plantation Estates shall materially comply with all representations made in the certificate of need application.**

2. **ACTS Retirement-Life Communities, Inc. d/b/a WillowBrooke Court SC Ctr at Plantation Estates shall develop no more than 10 Policy NH-2 nursing facility beds and 40 Policy LTC-1 adult care home beds for a facility total of no more than 90 NF beds and 100 ACH beds upon completion of the project.**
3. **The 10 Policy NH-2 nursing facility beds shall not be certified for participation in the Medicaid program.**
4. **The 10 Policy NH-2 nursing facility beds shall be used exclusively to meet the needs of persons with whom the facility has continuing care contracts (in compliance with the Department of Insurance statutes and regulations) who have lived in a non-nursing unit of the continuing care facility for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the nursing unit at the time the other spouse or sibling moves into a non-nursing unit, or when the medical condition requiring the nursing care was not known to exist or be imminent when the individual became a party to the continuing care contract.**
5. **The 40 Policy LTC-1 adult care home beds shall not participate in the Medicaid program or serve State-County Special Assistance recipients.**
6. **The 40 Policy LTC-1 adult care home beds shall be used exclusively to meet the needs of persons with whom the facility has continuing care contracts (in compliance with the Department of Insurance statutes and regulations) who have lived in a non-nursing or adult care unit of the continuing care facility for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the adult care home unit at the time the other spouse or sibling moves into a non-nursing or adult care unit, or when the medical condition requiring nursing or adult care home care was not known to exist or be imminent when the individual became a party to the continuing care contract.**
7. **The 10 new Policy NH-2 nursing facility beds and the 40 new Policy LTC-1 adult care home beds shall be developed on the same site with the independent living units.**
8. **ACTS Retirement-Life Communities, Inc. d/b/a WillowBrooke Court SC Ctr at Plantation Estates shall develop and implement an Energy Efficiency and Sustainability Plan for the project that conforms to or exceeds energy efficiency and water conservation standards incorporated in the latest editions of the North Carolina State Building Codes.**
9. **ACTS Retirement-Life Communities, Inc. d/b/a WillowBrooke Court SC Ctr at Plantation Estates shall acknowledge acceptance of and agree to comply with all**

**conditions stated herein to the Healthcare Planning and Certificate of Need Section in writing prior to issuance of the of the certificate of need.**

- (5) Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.

C

The applicant proposes to develop 10 new NF beds and 40 new ACH beds at WillowBrooke, an existing CCRC located in Mecklenburg County, pursuant to Policy NH-2 and Policy LTC-1. Upon completion of the proposed project WillowBrooke will have 90 NF and 100 ACH beds along with 505 independent living units.

**Capital and Working Capital Costs**

In Section VIII.1, page 65, the applicant projects the total capital cost to expand WillowBrooke will be:

Site costs	\$ 1,580,998
Construction costs	\$24,262,795
Equipment	\$ 1,650,000
Consultant Fees	\$ 2,000,000
Financing Costs	\$ 300,000
Interest during Construction	\$ 1,400,000
Contingency	<u>\$ 973,893</u>
Total:	\$32,167,686

In Section IX, page 70, the applicant states that since the facility is currently operational, there are no start-up costs or initial operating expenses associated with the project.

**Availability of Funds**

In Section VIII.2, page 66, the applicant states that the entire capital cost will be financed by a commercial loan.

In Exhibit 10, the applicant provides a letter dated January 25, 2017 from BB&T Bank which states the bank is willing to provide financing in the amount of \$65,000,000 for the development of the project, including the independent living units. The exhibit also provides an amortization schedule for the loan.

In Exhibit 10 the applicant provides the audited financial statements of ACTS Retirement-Life Communities, Inc. for years ending 2014 and 2015, which show cash and cash equivalents in the amount of \$11,102,000 as of December 31, 2015. The statements also

show total net assets of \$73,475,000 [total assets of \$1,187,936,000 – total liabilities of \$1,114,461 = \$73,475,000].

The applicant adequately demonstrates that sufficient funds will be available for the capital, working capital and operational needs of the proposed project.

**Financial Feasibility**

In Table X.4B, page 76, the applicant projects that the per diem reimbursement rate/charge for the second full federal fiscal year as follows:

PAYMENT SOURCE BY TYPE OF CARE	PRIVATE ROOM
<b>NF Beds (includes SCU beds)</b>	
Private Pay	\$288.00
Medicare	\$387.00
Medicaid	NA
<b>ACH Beds</b>	
Private Pay	\$145.00
Medicare	NA
Medicaid	NA

In Section XIII, the applicant provided pro forma financial statements for the first two full federal fiscal years of operation following completion of the project for both the nursing facility beds and the adult care home beds, which show revenues will exceed operating expenses in the second project year, as shown in the tables below:

**WillowBrooke – Project Year 1 (FFY 2020)**

	NF	SCU	ACH	ENTIRE FACILITY
Projected # Days	25,413	5,321	31,976	62,710
Projected Average Charge*	\$321	\$357	\$146	\$235
Patient Gross Revenue	\$7,464,807	\$1,563,012	\$4,636,520	\$13,664,339
Other Revenues	\$703,720	\$337,284	\$49,730	\$1,090,734
Total Revenue	\$8,168,527	\$1,900,296	\$4,686,250	\$14,755,072
Total Expenses	\$7,679,236	\$2,804,295	\$4,297,742	\$14,781,272
Net Income	\$489,281	(\$903,999)	\$388,508	(\$26,200)

\*Calculated by gross patient revenue / # days

**WillowBrooke – Project Year 2 (FFY 2021)**

	NF	SCU	ACH	ENTIRE FACILITY
Projected # Days	25,660	5,321	33,580	64,561
Projected Average Charge*	\$321	\$357	\$146	\$235
Patient Gross Revenue	\$7,537,273	\$1,563,012	\$4,869,100	\$13,969,385
Other Revenues	\$704,934	\$337,284	\$52,225	\$1,094,443
Total Revenue	\$8,242,207	\$1,900,296	\$4,920,551	\$15,063,827

Total Expenses	\$7,645,678	\$2,793,852	\$4,402,806	\$14,842,336
Net Income	\$596,529	(\$893,557)	\$517,745	\$221,491

\*Calculated by gross patient revenue / # days

In the pro forma financial statement (Form B), the applicant projects total revenue for the overall facility will exceed total operating expenses for the overall facility in the second operating year of the project, as show in the table below.

	<b>FIRST FULL FFY (2020)</b>	<b>SECOND FULL FFY (2021)</b>
Total Revenues	\$14,755,072	\$15,063,827
Total Operating Expenses	\$14,781,272	\$14,842,336
Net Profit (loss)	(\$26,200)	\$221,491

The assumptions used by the applicant in preparation of the pro forma financial statements are reasonable, including projected utilization, costs and charges. See the financial section of the application for the assumptions used regarding costs and charges. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference. The applicant adequately demonstrates that sufficient funds will be available for the operating needs of the proposal and that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.

**Conclusion**

In summary, the applicant adequately demonstrates that sufficient funds will be available for the capital, working capital and operational needs of the proposed project. Furthermore, the applicant adequately demonstrates that the financial feasibility of the proposal is based upon reasonable projections of costs and charges. Therefore, the application is conforming to this criterion.

- (6) The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.

**C**

The applicant proposes to develop 10 new NF beds and 40 new ACH beds at WillowBrooke, an existing CCRC located in Mecklenburg County, pursuant to Policy NH-2 and Policy LTC-1. Upon completion of the proposed project, WillowBrooke will have 90 NF and 100 ACH beds along with 505 independent living units.

On page 191, the 2017 SMFP defines the service area for NF beds as *“the nursing care bed’s service area is the nursing bed care planning area in which the bed is located. Each of the 100 counties in the state is a separate nursing care bed planning area.”* Thus, the service area for this facility consists of Mecklenburg County. Facilities may also serve residents of counties not included in their service area.

On page 219, the 2017 SMFP defines the service area for ACH beds as *“the adult care home bed planning area in which the bed is located. Ninety-eight counties in the state are separate adult care home planning areas. Two counties, Hyde and Tyrell, are considered a combined service area”*. Thus, the service area for this facility consists of Mecklenburg County. Facilities may also serve residents of counties not included in their service area.

The beds which are the subject of this application are proposed to be “closed” beds, and will only be available to existing independent living residents of WillowBrooke. The 2017 SMFP Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds and Policy NH-2: Plan Exemption for Continuing Care Retirement Communities require the applicants to exclusively meet the needs of people with whom the facility has continuing care contracts and who have lived at WillowBrooke for at least 30 days. The applicant’s proposal is consistent with the policies in the 2017 SMFP. Furthermore, the applicant adequately demonstrates the need the population to be served has for 10 additional Policy NH-2 beds and 40 additional Policy LTC-1 ACH beds. The discussion regarding the need for the proposed beds found in Criterion (3) is incorporated herein by reference.

In addition, the 2017 SMFP shows a deficit of 164 NF beds and a surplus of 311 ACH beds in Mecklenburg County. The applicant adequately demonstrates that the proposed project would not result in the unnecessary duplication of existing or approved ACH or NF beds in Mecklenburg County. Consequently, the application is conforming to this criterion.

- (7) The applicant shall show evidence of the availability of resources, including health manpower and management personnel, for the provision of the services proposed to be provided.

C

The applicant proposes to provide direct care staff twenty-four hours per day, seven days per week. In Section VII.1 and VII.2, pages 54 – 56, the applicant provides the proposed (second operating year) full time equivalent (FTE) staffing for NF and ACH beds, as shown in the table below.

	RN	LPN	AIDES	TOTAL FTEs
<b>DAY SHIFT</b>				
Nursing (Excluding SCU)	1.50	2.00	4.50	8.00
Nursing SCU (Memory Care)	1.00	1.00	2.50	4.50
<b>Total Nursing</b>	<b>2.50</b>	<b>3.00</b>	<b>7.00</b>	<b>12.50</b>
Adult Care Home (Excluding SCU)	0.00	2.50	3.50	6.00
Adult Care Home SCU	0.00	0.00	0.00	0.00
<b>Total Adult Care Home</b>	<b>0.00</b>	<b>2.50</b>	<b>3.50</b>	<b>6.00</b>
<b>EVENING SHIFT</b>				
Nursing (Excluding SCU)	1.50	2.00	4.50	8.00
Nursing SCU (Memory Care)	1.00	1.00	2.50	4.50
<b>Total Nursing</b>	<b>2.50</b>	<b>3.00</b>	<b>7.00</b>	<b>12.50</b>
Adult Care Home (Excluding SCU)	0.00	2.50	3.50	6.00

Adult Care Home SCU	0.00	0.00	0.00	0.00
<b>Total Adult Care Home</b>	<b>0.00</b>	<b>2.5</b>	<b>3.50</b>	<b>6.00</b>
<b>NIGHT SHIFT</b>				
Nursing (Excluding SCU)	1.29	1.86	4.57	7.72
Nursing SCU (Memory Care)	0.00	0.93	2.86	3.79
<b>Total Nursing</b>	<b>1.29</b>	<b>2.79</b>	<b>7.43</b>	<b>11.51</b>
Adult Care Home (Excluding SCU)	0.00	1.86	3.29	5.15
Adult Care Home SCU	0.00	0.00	0.00	0.00
<b>Total Adult Care Home</b>	<b>0.00</b>	<b>1.86</b>	<b>3.29</b>	<b>5.15</b>
<b>TOTAL FOR THE DAY</b>				
Nursing (Excluding SCU)	4.29	5.86	13.57	23.72
Nursing SCU (Memory Care)	2.00	2.93	7.86	12.79
<b>Total Nursing</b>	<b>6.29</b>	<b>8.79</b>	<b>21.43</b>	<b>36.51</b>
Adult Care Home (Excluding SCU)	0.00	6.86	10.29	17.15
Adult Care Home SCU	0.00	0.00	0.00	0.00
<b>Total Adult Care Home</b>	<b>0.00</b>	<b>6.86</b>	<b>10.29</b>	<b>17.15</b>

The applicant states that by Operating Year 2 WillowBrooke will be staffed by 122.0 FTE positions. In Section VII.6, pages 62 - 63, the applicant describes its experience and process for recruiting and retaining staff. Adequate costs for the health manpower and management positions proposed by the applicant are budgeted in the pro forma financial statements. The applicant adequately demonstrates the availability of sufficient health manpower and management personnel to provide the proposed services. Therefore, the application is conforming to this criterion.

- (8) The applicant shall demonstrate that the provider of the proposed services will make available, or otherwise make arrangements for, the provision of the necessary ancillary and support services. The applicant shall also demonstrate that the proposed service will be coordinated with the existing health care system.

C

WillowBrooke is an existing CCRC with 80 licensed NF beds, 60 licensed ACH beds and 359 independent living units. In Section II.2, pages 12 - 18, the applicant describes the ancillary and support services that will be provided by the facility or made available through agreements with other providers including dietary, medical transportation, dentistry, physician, therapy, rehab, laboratory, personal care, housekeeping and laundry services. Exhibit 11 contains a copy of an agreement with a local ambulance company for patient transport in the event of an emergency. The applicant adequately demonstrates that the necessary ancillary and support services will be available and that the proposed services will be coordinated with the existing health care system. Therefore, the application is conforming to this criterion.

- (9) An applicant proposing to provide a substantial portion of the project's services to individuals not residing in the health service area in which the project is located, or in adjacent health service areas, shall document the special needs and circumstances that warrant service to these individuals.



NA

- (10) When applicable, the applicant shall show that the special needs of health maintenance organizations will be fulfilled by the project. Specifically, the applicant shall show that the project accommodates: (a) The needs of enrolled members and reasonably anticipated new members of the HMO for the health service to be provided by the organization; and (b) The availability of new health services from non-HMO providers or other HMOs in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO. In assessing the availability of these health services from these providers, the applicant shall consider only whether the services from these providers:
- (i) would be available under a contract of at least 5 years duration;
  - (ii) would be available and conveniently accessible through physicians and other health professionals associated with the HMO;
  - (iii) would cost no more than if the services were provided by the HMO; and
  - (iv) would be available in a manner which is administratively feasible to the HMO.

NA

- (11) Repealed effective July 1, 1987.
- (12) Applications involving construction shall demonstrate that the cost, design, and means of construction proposed represent the most reasonable alternative, and that the construction project will not unduly increase the costs of providing health services by the person proposing the construction project or the costs and charges to the public of providing health services by other persons, and that applicable energy saving features have been incorporated into the construction plans.

C

The applicant proposes to develop 10 new NF beds and 40 new ACH beds at WillowBrooke, an existing CCRC in Mecklenburg County, pursuant to Policy NH-2 and Policy LTC-1. Upon completion of the proposed project WillowBrooke will have 90 NF and 100 ACH beds along with 505 independent living units.

The applicant proposes to expand the existing facility by adding a total of 87,732 square feet of new construction on the existing site, to which it will relocate the 80 existing NF beds and develop the proposed new 10 NF beds. The 40 new ACH beds proposed in this application and the 60 existing ACH beds will backfill the space vacated by the NF beds. After project completion, the WillowBrooke facility will have 125,688 in total square footage, and separate areas for NF and ACH beds (See Section XI.5, page 89).

In Exhibit 13, the applicant provides an architect's letter in which the architect estimates that renovation costs for the ACH beds will be \$100 per square foot or \$3,795,600 (\$100 x 37,956 square feet = \$3,795,600), which corresponds to the projected capital costs in Section VIII,

page 65. In addition, the applicant provides a letter from a general contractor in Exhibit 13 which estimates the total construction cost of the NF beds to be \$23,022,086, which corresponds to the projected capital costs in Section VIII, page 65.

In Section XI.14, pages 94 - 95, the applicants provide a written statement describing the proposed project's plan to assure improved energy efficiency and water conservation. The discussion regarding costs and charges found in Criterion (5) is incorporated herein by reference. The applicant adequately demonstrates that the cost, design and means of construction represent the most reasonable alternative, and that the construction project will not unduly increase costs and charges for health services. Therefore, the application is conforming to this criterion.

- (13) The applicant shall demonstrate the contribution of the proposed service in meeting the health-related needs of the elderly and of members of medically underserved groups, such as medically indigent or low income persons, Medicaid and Medicare recipients, racial and ethnic minorities, women, and handicapped persons, which have traditionally experienced difficulties in obtaining equal access to the proposed services, particularly those needs identified in the State Health Plan as deserving of priority. For the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show:
- (a) The extent to which medically underserved populations currently use the applicant's existing services in comparison to the percentage of the population in the applicant's service area which is medically underserved;

C

The 2017 SMFP Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds and Policy NH-2: Plan Exemption for Continuing Care Retirement Communities requires the applicants to exclusively meet the needs of people with whom the facility has continuing care contracts and who have lived at WillowBrooke for at least 30 days. The policies also prohibit participation in the Medicaid program and serving State-County Special Assistance recipients.

- (b) Its past performance in meeting its obligation, if any, under any applicable regulations requiring provision of uncompensated care, community service, or access by minorities and handicapped persons to programs receiving federal assistance, including the existence of any civil rights access complaints against the applicant;

C

The 2017 SMFP Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds and Policy NH-2: Plan Exemption for Continuing Care Retirement Communities requires the applicants to exclusively meet the needs of people with whom the facility has continuing care contracts and who

have lived at WillowBrooke for at least 30 days. The policies also prohibit participation in the Medicaid program and serving State-County Special Assistance recipients.

- c) That the elderly and the medically underserved groups identified in this subdivision will be served by the applicant's proposed services and the extent to which each of these groups is expected to utilize the proposed services; and

C

The 2017 SMFP Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds and Policy NH-2: Plan Exemption for Continuing Care Retirement Communities requires the applicants to exclusively meet the needs of people with whom the facility has continuing care contracts and who have lived at WillowBrooke for at least 30 days. The policies also prohibit participation in the Medicaid program and serving State-County Special Assistance recipients.

- (d) That the applicant offers a range of means by which a person will have access to its services. Examples of a range of means are outpatient services, admission by house staff, and admission by personal physicians.

C

The 2017 SMFP Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds and Policy NH-2: Plan Exemption for Continuing Care Retirement Communities requires the applicants to exclusively meet the needs of people with whom the facility has continuing care contracts and who have lived at WillowBrooke for at least 30 days. The policies also prohibit participation in the Medicaid program and serving State-County Special Assistance recipients.

- 14) The applicant shall demonstrate that the proposed health services accommodate the clinical needs of health professional training programs in the area, as applicable.

C

In Section V.1, page 44, the applicant states it will continue to accommodate the clinical needs of health professional training programs, including Central Piedmont Community College, Aegis Therapies, Inc., and American Academy of Healthcare and ECPI. In Exhibit 8, the applicant provides a copy of a sample agreement with Central Piedmont Community College.

The applicant adequately demonstrates that the proposed facility would accommodate the clinical needs of area health professional training programs. Therefore, the application is conforming to this criterion.

- (15) Repealed effective July 1, 1987.
- (16) Repealed effective July 1, 1987.
- (17) Repealed effective July 1, 1987.
- (18) Repealed effective July 1, 1987.
  
- (18a) The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.

NA

The 2017 SMFP Policy LTC-1: Plan Exemption for Continuing Care Retirement Communities – Adult Care Home Beds and Policy NH-2: Plan Exemption for Continuing Care Retirement Communities require the applicants to exclusively meet the needs of people with whom the facility has continuing care contracts and who have lived at WillowBrooke for at least 30 days. The policies also prohibit participation in the Medicaid program and serving State-County Special Assistance recipients.

- (19) Repealed effective July 1, 1987.
  
- (20) An applicant already involved in the provision of health services shall provide evidence that quality care has been provided in the past.

C

In Section I.2, page 7, the applicant identifies two other facilities in North Carolina which are owned and managed by ACTS Retirement – Life Communities, Inc. In II.6, page 24, the applicant states there have been no quality of care issues associated with any of its facilities in North Carolina. According to the Nursing Home Licensure and Certification Section, DHSR, during the 18 months immediately preceding the submittal of the application through the date of the decision there were no incidents in any of these three facilities affecting licensure of the facilities. After reviewing and considering information provided by the applicant and by the Nursing Home Licensure and Certification Section and considering the quality of care

provided at all facilities, the applicant provided sufficient evidence that quality care has been provided in the past. Therefore, the application is conforming to this criterion.

- (21) Repealed effective July 1, 1987.
- (b) The Department is authorized to adopt rules for the review of particular types of applications that will be used in addition to those criteria outlined in subsection (a) of this section and may vary according to the purpose for which a particular review is being conducted or the type of health service reviewed. No such rule adopted by the Department shall require an academic medical center teaching hospital, as defined by the State Medical Facilities Plan, to demonstrate that any facility or service at another hospital is being appropriately utilized in order for that academic medical center teaching hospital to be approved for the issuance of a certificate of need to develop any similar facility or service.

NA

The Criteria and Standards for Nursing Facility or Adult Care Home Facility Services, promulgated in 10A NCAN 14C .1100 are not applicable to a Continuing Care Retirement Community developing either new Policy NH-2 nursing facility beds and/or new Policy LTC-1 adult care home beds.